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No. 446

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1944

L. C. NEWMAN, *Petitioner*,

VERSUS

THE STATE OF TEXAS, *Respondent*

PETITION FOR WRIT OF CERTIORARI AND BRIEF IN SUPPORT THEREOF

V. A. COLLINS,
ERNEST COLER,
Attorneys for Petitioner

Of Counsel:
CARTER WESLEY

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To the Honorable the Chief Justice and Associate Justices of the Supreme Court of the United States:

Petitioner, L. C. Newman, prays for a writ of certiorari to review the judgment of the Court of Criminal Appeals of the State of Texas, entered in the above entitled cause on the 25th day of April, 1945. The judgment affirmed a Polk County, Texas, District Court, in which the penalty of death was assessed your petitioner.

Opinion Below

The opinion of the Court of Criminal Appeals is reported in 187 Southwestern (2d), page 559.

Jurisdiction

(A.) Petitioner was denied the right of a legal trial by a legal venire, as required by the Federal and State Constitutions.

(B.) The jurisdiction of this Court is invoked under the Fourteenth Amendment of the FEDERAL CONSTITUTION, in that the petitioner purportedly made a statement under such circumstances and conditions conclusively showing that it was an involuntary confession, which was introduced in evidence against him, denying him a fundamental right under the Due Process clause of the Fourteenth Amendment.

Question Presented

The petitioner was tried and convicted in the State courts in which he was denied the right of a legal jury, guaranteed him by the Constitutions of the United States, and the State of Texas.

He was forced to give evidence against himself, in that a confession purportedly made by him under circumstances showing that it was an involuntary confession, was introduced in evidence against him, resulting in the death penalty being inflicted against him.

Summary Statement

Your petitioner was indicted by the Grand Jury of Polk County, Texas, for the crime of murder, charged to have been committed in Polk County, Texas, on or about August the 27th, 1944, and on or about September the 26th, 1944, and assessed the death penalty.

He was a person too poor to employ counsel to defend him. The court, as required by law, appointed V. A. Collins and Ernest Coker, members of the Polk County Bar to de-

fend petitioner. Many exceptions were reserved to the introduction of evidence, and the refusal of the court to permit the introduction of evidence. The case was duly and timely appealed from the District Court to the Court of Criminal Appeals, which said court in due time affirmed the judgment of the trial court. On April the 7th, 1944, appellant filed a motion for rehearing, which was overruled. This petitioner is without recourse, so far as the State Courts are concerned.

Two assignments presented in the Court of Criminal Appeals and overruled, are based upon rights guaranteed by the Constitution of the United States.

(a.) Petitioner was not tried before a legal jury.

(b.) He was forced to give evidence against himself, in that a confession made by him under circumstances conclusively showing that it was an involuntary confession, was introduced in evidence against him.

With these two constitutional rights denied him, he is under a death sentence, and is without further recourse before any State tribunal, and his only recourse is to the Honorable Supreme Court of the United States through its gracious writ of certiorari.

Reasons for Granting the Writ

(1.) The decision of the Court of Criminal Appeals of the State of Texas has denied your petitioner the rights guaranteed him under the Constitution, Section 19, Article 16, of the CONSTITUTION OF THE STATE OF TEXAS, in which it gives the Legislature the power to fix the qualifications of jurors.

(2.) The Court of Criminal Appeals affirmed a conviction

obtained by the use of a confession improperly obtained, which constitutes a denial of Due Process of Law, as guaranteed by the Fourteenth Amendment of the FEDERAL CONSTITUTION.

The reasons stated above will be discussed in the brief.

V. A. COLLINS,
ERNEST COKER,
Livingston, Texas

Of Counsel:
CARTER WESLEY,
Houston, Texas